

Senate Bill 203

By: Senators Harp of the 29th, Staton of the 18th, Mullis of the 53rd, Shafer of the 48th, Hamrick of the 30th and others

**AS PASSED**

AN ACT

To amend Article 14 of Chapter 1 of Title 10 and Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to secondary metals recyclers and penalties for certain theft crimes, respectively, so as to change a definition; to change provisions relating to actions to recover property; to change provisions relating to penalties for violating Article 14 of Chapter 1 of Title 10; to change certain penalties for certain theft crimes; to provide for legislative findings and preemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to secondary metals recyclers, is amended by revising paragraph (3) of Code Section 10-1-350, relating to definitions, as follows:

"(3) 'Nonferrous metals' means stainless steel beer kegs and metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof."

**SECTION 1.1.**

Said article is further amended by revising Code Section 10-1-354, relating to contesting identification or ownership of regulated metal property and action to recover property, as follows:

"10-1-354.

(a) If the secondary metals recycler contests the identification or ownership of the regulated metal property, the party other than the secondary metals recycler claiming ownership of any regulated metal property in the possession of a secondary metals recycler may, provided that a timely report of the theft of the regulated metal property was made to the proper authorities, bring an action in the superior or state court of the county in which the secondary metals recycler is located. The petition for such action shall include

a description of the means of identification of the regulated metal property utilized by the petitioner to determine ownership of the regulated metal property in the possession of the secondary metals recycler.

(b) When a lawful owner recovers stolen regulated metal property from a secondary metals recycler who has complied with the provisions of this article, and the person who sold the regulated metal property to the secondary metals recycler is convicted of theft by taking, theft by conversion, a violation of this article, theft by receiving stolen property, or criminal damage to property in the first degree, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the secondary metals recycler or lawful owner, as appropriate.

(c) When a lawful owner recovers stolen regulated metal property from a secondary metals recycler who has knowingly and intentionally not complied with the provisions of this article, and the secondary metals recycler is convicted of theft by taking, theft by conversion, theft by receiving stolen property, or a violation of this article, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the lawful owner."

## **SECTION 2.**

Said article is further amended by revising Code Section 10-1-357, relating to penalties for violations of the article, as follows:

"10-1-357.

(a) Any person selling regulated metal property to a secondary metals recycler in violation of any provision of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds \$500.00, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not less than one nor more than five years, or both.

(b) Any secondary metals recycler knowingly and intentionally engaging in any practice which constitutes a violation of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds \$500.00, such secondary metals recycler shall be guilty

of a felony and, upon conviction, shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not less than one nor more than five years, or both."

### **SECTION 3.**

Said article is further amended by adding a new Code section to read as follows:

"10-1-358.

The General Assembly finds that this article is a matter of state-wide concern. This article supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by any county, municipality, consolidated government, or other local governmental agency regarding the sale or purchase of regulated metal property."

### **SECTION 4.**

Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for violation of Code Sections 16-8-2 through 16-8-9, is revised in subsection (a) by striking "or" at the end of paragraph (7), by replacing the period with "; or" at the end of paragraph (8), and by adding a new paragraph to read as follows:

"(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property of the theft was ferrous metals or regulated metal property, as such terms are defined in Code Section 10-1-350, and the aggregate amount of such property, in its original and undamaged condition, exceeds \$500.00, by imprisonment for not less than one nor more than five years, a fine of not more than \$5,000.00, or both."

### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.